MT LEGISLATIVE HISTORY

Chapter 680 1985

Bill H _____ S 25 Original bill & hist. / C

H. Committee on Local Gov't.

Hearing Date(s) _____ ___C

3/19 ✓C

_____ ___C

_____ ___C

Date Out 3/21 ✓C

S. Committee on Local Gov't.

Hearing Date(s) _____ ___C

2/5 ✓C

_____ ___C

_____ ___C

2/14 ✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

3/15 SIGNED BY PRESIDENT
3/15 SIGNED BY SPEAKER

3/15 TRANSMITTED TO GOVERNOR
3/18 SIGNED BY GOVERNOR
CHAPTER NUMBER 81 EFFECTIVE DATE: 10/01/85

SB 25 INTRODUCED BY TOWE
STATE FUNDING FOR CERTAIN DISTRICT COURT EXPENSES
BY REQUEST OF INTERIM SUBCOMMITTEE NO. 3

1/07	INTRODUCED		
1/07	REFERRED TO LOCAL GOVERNMENT		
1/08	FISCAL NOTE REQUESTED		
1/12	FISCAL NOTE RECEIVED		
2/05	HEARING		
2/21	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/23	2ND READING PASS	38	8
2/25	3RD READING PASS	43	5
	TRANSMITTED TO HOUSE		
2/27	REFERRED TO LOCAL GOVERNMENT		
3/19	HEARING		
3/22	COMM REPORT-BILL CONCURRED AS AMENDED		
4/01	2ND READING CONCURRED	76	23
4/01	3RD READING CONCURRED	76	24
	RETURNED TO SENATE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	50	0
4/08	3RD READING AMENDMENTS CONCURRED	48	1
4/12	SIGNED BY PRESIDENT		
4/15	SIGNED BY SPEAKER		
4/15	TRANSMITTED TO GOVERNOR		
4/20	RETURNED WITH GOVERNOR'S AMENDMENTS		
4/23	2ND READING GOVERNOR'S AMENDMENTS NOT CONCURRED	40	0
	TRANSMITTED TO HOUSE		
4/24	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	93	0
4/24	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	83	10
	RETURNED TO SENATE		
4/25	FREE CONFERENCE COMMITTEE APPOINTED		
4/25	FREE CONFERENCE COMMITTEE REPORT		
	SENATE		
4/25	2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	48	2
4/25	3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	38	12
	HOUSE		
4/25	2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	87	12
4/25	3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	84	10
5/01	SIGNED BY PRESIDENT		

5/02 SIGNED BY SPEAKER

5/02 TRANSMITTED TO GOVERNOR
5/09 SIGNED BY GOVERNOR
CHAPTER NUMBER 680 EFFECTIVE DATE: 7/01/85

SB 26 INTRODUCED BY TOWE
PERMITTING SALE OR EXCHANGE OF STATE LANDS TO MONTANA INDIAN TRIBES
BY REQUEST OF INDIAN AFFAIRS COMMITTEE

1/07 INTRODUCED
1/07 REFERRED TO JUDICIARY
1/09 HEARING
1/11 COMMITTEE REPORT-BILL PASS AS AMENDED
1/14 2ND READING PASS 44 5
1/16 3RD READING PASS 34 15

TRANSMITTED TO HOUSE
1/18 REFERRED TO STATE ADMINISTRATION
1/19 REREFERRED TO JUDICIARY
3/11 HEARING
3/29 COMM REPORT-BILL CONCURRED AS AMENDED
4/01 2ND READING CONCURRED AS AMENDED 71 28
4/01 3RD READING CONCURRED 78 22

RETURNED TO SENATE WITH AMENDMENTS
4/04 2ND READING AMENDMENTS NOT CONCURRED 50 0
4/05 CONFERENCE COMMITTEE APPOINTED
4/16 CONFERENCE COMMITTEE REPORT

SENATE
4/17 2ND READING CONFERENCE COMMITTEE REPORT ADOPTED 49 0
4/18 3RD READING CONFERENCE COMMITTEE REPORT ADOPTED 49 0

HOUSE
4/16 2ND READING CONFERENCE COMMITTEE REPORT ADOPTED 80 9
4/16 3RD READING CONFERENCE COMMITTEE REPORT ADOPTED 83 9
4/22 SIGNED BY PRESIDENT
4/23 SIGNED BY SPEAKER

4/24 TRANSMITTED TO GOVERNOR
4/25 SIGNED BY GOVERNOR
CHAPTER NUMBER 628 EFFECTIVE DATE: 10/01/85

SB 27 INTRODUCED BY DANIELS
ORIENTATION SESSIONS AND TRAINING SESSIONS FOR DISTRICT COURT CLERKS
BY REQUEST OF INTERIM SUBCOMMITTEE NO. 3

1/07 INTRODUCED
1/07 REFERRED TO JUDICIARY
1/08 FISCAL NOTE REQUESTED
1/10 HEARING
1/14 FISCAL NOTE RECEIVED
1/17 COMMITTEE REPORT-BILL PASS AS AMENDED

SENATE BILL NO. 25

INTRODUCED BY TOWE

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Local Government.
January 8, 1985	Fiscal Note requested.
January 12, 19815	Fiscal Note returned.
February 21, 1985	Committee recommend bill do pass as amended. Report adopted.
February 22, 1985	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass.
February 25, 1985	Considered correctly engrossed.
	Third reading, passed. Ayes, 43; Noes, 5.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Local Government.
March 22, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1985	Motion pass consideration until 65th Legislative Day.

March 26, 1985	On motion, consideration of bill postponed until such time as Senate Bill No. 142 is ready for second reading.
March 30, 1985	Second reading, pass consideration.
April 1, 1985	Second reading, concurred in.
	Third reading, concurred in.
	Returned to Senate with amendments.

IN THE SENATE

April 1, 1985	Received from House.
April 4, 1985	Second reading, amendments concurred in.
April 8, 1985	Third reading, amendments concurred in.
	Sent to enrolling.
April 12, 1985	Correctly enrolled.
	Signed by President.
April 15, 1985	Signed by Speaker.
	Delivered to Governor.
April 20, 1985	Returned from Governor with recommended amendments.
April 22, 1985	Second reading, pass consideration.
April 23, 1985	Second reading, Governor's amendments not concurred in.
	Governor's amendments transmitted to House.

IN THE HOUSE

April 24, 1985

Received from Senate.

Second reading, Governor's amendments concurred in.

Third reading, Governor's amendments concurred in.

Returned to Senate.

IN THE SENATE

April 25, 1985

Received from House.

On motion, Free Conference Committee requested and appointed.

Free Conference Committee reported.

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted.

Free Conference Committee report adopted by House.

Sent to enrolling.

Reported correctly enrolled.

SENATE BILL NO. 25

INTRODUCED BY TOWE

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE TO ASSUME FUNDING FOR CERTAIN DISTRICT COURT EXPENSES AND REQUIRING THE LEGISLATURE TO PROVIDE FULL FUNDING FOR THE DISTRICT COURT GRANT PROGRAM; AMENDING SECTIONS 3-5-602, 3-5-604, 7-6-2352, 7-6-2426, 46-8-114, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-15-104, AND 46-18-235, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. State assumption of certain district court expenses. (1) Effective July 1, 1985, the state shall fund the following district court expenses in criminal cases only:

(a) salaries of court reporters;

(b) transcripts of proceedings;

(c) witness fees and necessary expenses;

(d) juror fees;

(e) indigent defense; and

(f) psychiatric examinations.

(2) The supreme court administrator, under the direction of the supreme court and in consultation with the district judges for each judicial district, shall include within the supreme court's biennial budget request to the legislature a request for funding the expenses listed in subsection (1).

(3) The legislature shall appropriate from the state general fund to the supreme court sufficient money to fund the expenses listed in subsection (1).

NEW SECTION. Section 2. Fiscal administration for payment of court expenses. The supreme court administrator shall:

(1) establish procedures for disbursement of funds for payment of district court expenses listed in [section 1];

(2) in consultation with the department of commerce, develop a uniform accounting system for use by the counties in reporting court expenses at a detailed level for budgeting and auditing purposes; and

(3) provide for annual auditing of district court expenses to assure normal operations and consistency in reporting of expenditures.

NEW SECTION. Section 3. Reimbursement for juror and witness fees. According to procedures established by the supreme court administrator under [section 2(1)], each clerk of district court shall submit to the supreme court administrator a detailed statement containing a list of witnesses and jurors for criminal cases only and the amount

LC 0032/01

of per diem and mileage paid to each by the county. Upon receipt and verification of the statement, the administrator shall promptly reimburse the general fund of the designated county for the cost of witness and juror fees.

Section 4. Section 3-5-602, MCA, is amended to read:

"3-5-602. Salary and expenses -- apportionment. (1) Each reporter is entitled to receive a base annual salary of not less than $16,000 or more than $23,000 and no other compensation except as provided in 3-5-604. The salary shall be set by the judge for whom the reporter works. The salary is payable in monthly installments out of the general funds of the counties comprising the district for which the reporter is appointed and out of an appropriation made to the supreme court as provided in subsection (2).

(2) The supreme court administrator shall determine the total number of civil and criminal actions commenced in the preceding year in the district court or courts in the judicial district for which a reporter is appointed. The state shall pay its portion of the reporter's salary based on the proportion of the total number of criminal actions commenced in the district court or courts in the district. Each county shall pay its portion of the salary based on its proportion of the total number of civil ~~and criminal~~ actions commenced in the district courts in the district ~~in the preceding year~~. The judge or judges of the district shall,

on January 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in his or their district on the basis prescribed in this subsection. The portion of the salary payable by a county is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

~~(2)~~(3) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto. The expenses shall be apportioned and payable in the same way as the salary."

Section 5. Section 3-5-604, MCA, is amended to read:

"3-5-604. Transcript of proceedings. (1) Each reporter must furnish, upon request, with all reasonable diligence, to a party or his attorney in a case in which he has attended the trial or hearing a transcript from his stenographic notes of the testimony and proceedings of the trial or hearing or a part thereof, upon payment by the person requiring the same of $2 per page for the original transcript, 50 cents per page for the first copy, 25 cents per page for each additional copy.

(2) If the county attorney, attorney general, or judge requires a transcript in a criminal case, the reporter is entitled to his fees therefor, but he must furnish it. Upon furnishing it, he shall receive a certificate ~~of~~ for the sum to which he is ~~so~~ entitled~~,-which-is--a--county--charge--and must--be--paid--by-the-county-treasurer-upon-the-certificate like-other-county-charges~~. The reporter shall submit the certificate to the supreme court administrator who is responsible for the prompt payment of the amount due the reporter.

(3) If the judge requires a copy in a civil case to assist him in rendering a decision, the reporter must furnish the same without charge therefor. In civil cases, all transcripts required by the county shall be furnished, and only the reporter's actual costs of preparation may be paid by the county.

(4) If it appears to the judge that a defendant in a criminal case is unable to pay for a transcript, it shall be furnished to him and paid for by the ~~county~~ state in the manner provided in subsection (2)."

Section 6. Section 7-6-2352, MCA, is amended to read:

"7-6-2352. State grants to district courts -- rules. (1) The department of commerce shall make grants to the governing body of a county for the district courts for assistance, as provided in this section. The grants are to

be made from funds appropriated to the department for that purpose as provided in subsection (2). ~~If--the--department approves--grants--in-excess-of-the-amount-appropriated,-each grant--shall--be--reduced--an--equal---percentage---so---the appropriation-will-not-be-exceeded.~~

(2) The legislature shall appropriate from the state general fund to the department of commerce sufficient money to fully fund eligible grant requests submitted by the governing bodies of the counties. If in the first fiscal year of the biennium for which an appropriation is made eligible grant requests exceed the first fiscal year appropriation, the department shall make expenditures from the second fiscal year appropriation to fund the grant requests. If in the second fiscal year of the biennium for which an appropriation is made, eligible grant requests exceed the second fiscal year appropriation, as it may be reduced by expenditures for eligible first fiscal year grant requests, the department shall request a supplemental appropriation at the next legislative session.

~~(2)~~(3) The governing body of a county may ~~o~~pply to the department of commerce for a grant by filing a written request on forms provided by the department by July 20 for the previous fiscal year unless the department grants a time extension upon request of the county. In its request for a grant, a county must certify that:

(a) all expenditures from the district court fund have been lawfully made;

(b) no transfers from the district court fund have been or will be made to any other fund; and

(c) no expenditures have been made from the district court fund that are not specifically authorized by 7-6-2511 and 7-6-2351.

~~(3)~~(4) The department of commerce shall award a grant if the county's district court expenditures for the previous fiscal year exceeded the sum of:

(a) the product of the maximum mill levy authorized by law for district court purposes, whether or not assessed, multiplied by the previous year's taxable valuation of the county; and

(b) all revenues, except district court grants, required by law to be deposited in the district court fund for the previous fiscal year.

~~(4)~~(5) Eligible court expenditures for grant purposes include all costs of the county associated with the operation and maintenance of the district court, from whatever fund paid, except costs for building and capital items and library maintenance, replacement, and acquisition.

~~(5)~~(6) The department of commerce shall notify each eligible county as soon as possible of its intention to award a grant to that county and the amount of the award.

~~(6)~~(7) The grant received by the county shall be placed in the district court fund.

~~(7)~~(8) After all grants are awarded, the department of commerce shall audit each approved grant request. The department shall charge each county receiving a grant an audit fee in the same amount as the costs incurred in conducting the audit.

~~(8)~~(9) If the audit of a grant recipient discloses that the recipient received a grant in excess of the amount for which it was eligible, the recipient shall repay the excess to the department of commerce. The department shall redistribute any repaid excess amounts to the other counties that received grants from the appropriation from which the overpayment was made, on the same basis as the original awards. No county is eligible for a district court grant if it owes the department a refund of a prior year's overpayment.

~~(9)~~(10) The department of commerce shall prescribe rules and forms necessary to effectively administer this section. The department may require a county to provide any information considered necessary for the administration of the program."

Section 7. Section 7-6-2426, MCA, is amended to read:

"7-6-2426. Enumeration of county charges. The following are county charges:

(1) charges incurred against the county by virtue of any provision of this title;

(2) one-half of the salary of the county attorney and all expenses necessarily incurred by him in criminal cases arising within the county;

(3) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons charged with criminal offenses;

(4) the board of prisoners confined in jail;

~~(5) the sums required by law to be paid to grand and trial jurors and witnesses in criminal cases;~~

~~(6)~~(5) the accounts of the coroner of the county for such services as are provided by law;

~~(7)~~(6) all charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law;

~~(8)~~(7) the necessary expenses incurred in the support of county hospitals and poorfarms and in the support of the indigent sick and the otherwise dependent poor whose support is chargeable to the county;

~~(9)~~(8) the contingent expenses necessarily incurred for the use and benefit of the county;

~~(10)~~(9) every other sum directed by law to be raised

for any county purpose under the direction of the board of county commissioners or declared to be a county charge."

Section 8. Section 46-8-114, MCA, is amended to read:

"46-8-114. Time and method of payment of costs. When a defendant is sentenced to pay the costs of court-appointed counsel, the court may order payment to be made within a specified period of time or in specified installments. Such payments shall be made to the clerk of the district court. The clerk of the district court shall disburse the payments to the ~~county~~ city or town or state agency responsible for the expenses of court-appointed counsel as provided for in 46-8-201."

Section 9. Section 46-8-201, MCA, is amended to read:

"46-8-201. Remuneration of appointed counsel. (1) Whenever in a criminal proceeding an attorney represents or defends any person by order of the court on the ground that the person is financially unable to employ counsel, the attorney shall be paid for his services such sum as a district court or justice of the state supreme court certifies to be a reasonable compensation therefor and shall be reimbursed for reasonable costs incurred in the criminal proceeding.

(2) The expense of implementing subsection (1) is chargeable to the ~~county in which the proceeding arose~~ office of supreme court administrator, except that:

(a) in proceedings solely involving the violation of a city ordinance or state statute prosecuted in a municipal or city court, the expense is chargeable to the city or town in which the proceeding arose; and

(b) when there has been an arrest by agents of the department of fish, wildlife, and parks or agents of the department of justice, the expense must be borne by the state agency causing the arrest."

Section 10. Section 46-8-202, MCA, is amended to read:

"46-8-202. Public defender's office. Any county through its board of county commissioners may provide for the creation of a public defender's office and the appointment of a salaried public defender and such assistant public defenders as may be necessary to satisfy the legal requirements in providing counsel for defendants unable to employ counsel. The costs of such office shall be at ~~county~~ state expense payable according to procedures established under [section 2(1)]."

Section 11. Section 46-11-319, MCA, is amended to read:

"46-11-319. Expenses of grand jury. (1) All expenses of the grand jury, including special counsel and investigators, if any, shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor or the clerk of the district

court upon the written order of the judge of the district court of the county.

(2) The state shall reimburse the county general fund for juror and witness fees as provided in [section 3] and for witness expenses as provided in 46-15-104."

Section 12. Section 46-14-202, MCA, is amended to read:

"46-14-202. Psychiatric examination of defendant. (1) If the defendant or his counsel files a written notice of his intent to rely on a mental disease or defect under 46-14-201 or raises the issue of his fitness to proceed, the court shall appoint at least one qualified psychiatrist or shall request the superintendent of the Montana state hospital to designate at least one qualified psychiatrist, which designation may be or include himself, to examine and report upon the mental condition of the defendant.

(2) The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period of not exceeding 60 days or such longer period as the court determines to be necessary for the purpose and may direct that a qualified psychiatrist retained by the defendant be permitted to witness and participate in the examination.

(3) In the examination any method may be employed which is accepted by the medical profession for the

examination of those alleged to be suffering from mental disease or defect.

(4) The cost of the examination must be paid by the state according to procedures established under [section 2(1)]."

Section 13. Section 46-15-104, MCA, is amended to read:

"46-15-104. Expenses of witness. (1) When a person attends before a magistrate, grand jury, or court as a witness in a criminal case upon a subpoena or in pursuance of an undertaking, the judge, at his discretion, by a written order may direct the clerk of the court to draw his warrant upon the county treasurer in favor of such witness for a reasonable sum, to be specified in the order, for the necessary expenses of the witness.

(2) According to procedures established by the supreme court administrator under [section 2(1)], the clerk of district court shall submit to the supreme court administrator a detailed statement containing a list of witnesses and the amount of expenses paid to each by the county. Upon receipt and verification of the statement, the administrator shall promptly reimburse the general fund of the designated county for the cost of witness expenses."

Section 14. Section 46-18-235, MCA, is amended to read:

"46-18-235. Disposition of money collected as fines and costs. The money collected by a court as a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and 46-18-232 shall be paid to the county general fund of the county in which the court is held, except that:

(1) if the costs assessed include any district court expense listed in [section 1], the money collected from assessment of these costs must be paid to the supreme court administrator for deposit into the state general fund; and

(2) if the fine was imposed for a violation of Title 45, chapter 9, the court may order the money paid into the drug forfeiture fund maintained under 44-12-206 for the law enforcement agency which made the arrest from which the conviction and fine arose."

NEW SECTION. Section 15. Codification instruction. Sections 1 through 3 are intended to be codified as an integral part of Title 3, chapter 5, and the provisions of Title 3, chapter 5, apply to sections 1 through 3.

NEW SECTION. Section 16. Effective date. This act is effective July 1, 1985.

-End-

STATE OF MONTANA

F I S C A L N O T E

REQUEST NO. FNN 019-85

Form BD-15

In compliance with a written request received January 09, 19 85, there is hereby submitted a Fiscal Note for S.B. 25 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 25 is an act requiring the state to assume funding for certain District Court expenses and requiring the Legislature to provide full funding for the District Court grant program; amending Sections 3-5-602, 3-5-604, 7-6-2352, 7-6-2426, 46-8-114, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-15-104 and 46-18-235, MCA; and providing an effective date.

ASSUMPTIONS:

(1) Each district court judge will continue to employ one court reporter at an annual salary of $23,000 with benefits at 16%.

(2) Approximately 65% of the court reporters' workload concern are criminal actions.

(3) All costs associated with categories, b,c,d,e and f of Section 1 are incurred because of criminal actions.

(4) All expenses will be paid directly by the Court Administrator's office.

(5) District Court emergency grant costs will decrease by approximately 80%.

FISCAL IMPACT:

See separate table.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 12, 1985

FN1:D/1

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

1. No provision for disposition of fees collected by the board.
2. No provision for termination date of Grandfather Clause.

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 019-85

Form BD-15

In compliance with a written request received January 09, 19 85, there is hereby submitted a Fiscal Note for S.B. 25/corrected pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 25 is an act requiring the state to assume funding for certain District Court expenses and requiring the Legislature to provide full funding for the District Court grant program; amending Sections 3-5-602, 3-5-604, 7-6-2352, 7-6-2426, 46-8-114, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-15-104 and 46-18-235, MCA; and providing an effective date.

ASSUMPTIONS:

(1) Each district court judge will continue to employ one court reporter at an annual salary of $23,000 with benefits at 16%.

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(4) All expenses will be paid directly by the Court Administrator's office.

(5) District Court emergency grant costs will decrease by approximately 80%.

FISCAL IMPACT:

See separate table.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 12, 1985

FN1:

CORRECTED VERSION

NOTES:

(1) A 4% inflation factor was applied to FY 84 base.
(2) FY 85 salary figures were used for District Judges only.

FISCAL IMPACT:

SB 25
FISCAL NOTE

State Impact:	FY 1986 Amount Under Current Law	FY 1986 Amount Under Proposed Law	FY 1986 Increase (Decrease)	FY 1987 Amount Under Current Law	FY 1987 Amount Under Proposed Law	FY 1987 Increase (Decrease)
Expenditures:						
Personal Services	2,005,255	2,713,310	708,055	2,005,255	2,713,310	708,055
Operation Expenses	150,636	2,457,954	2,307,318	150,636	2,457,954	2,307,318
Capital Outlay	-0-	17,760	17,760	-0-	-0-	-0-
Grants to Counties	1,701,213	340,242	(1,360,971	1,701,213	340,242	(1,360,971)
Net Effect (State General Fund)	3,857,104	5,529,266	1,672,162	3,857,104	5,511,506	1,654,402

Local Impact:

County expenses statewide will decrease by approximately $1,672,162 in FY 86 and $1,654,402 in FY 87.

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 5, 1985

The ninth meeting of the Local Government Committee was called to order at 1:00 p.m. on February 5, 1985 by Vice Chairman John Mohar in Room 405 of the Capitol Building.

ROLL CALL: All members were present with the exception of Chairman Fuller. He joined the meeting temporarily and then was excused to introduce bills at other committee meetings. Senators Crippen and Regan arrived late.

Senate Bills 25 and 142 were presented together as Senate Bill 142 is contingent upon the passage of Senate Bill 25.

CONSIDERATION OF SENATE BILL 25: Senator Tom Towe, District #46, is the sponsor of this bill. The bill was introduced at the request of Joint Interim Subcommittee No. 3. The purpose of the bill is to require the State to assume funding for certain district court expenses and requiring the legislature to provide full funding for the district court grant program.

Senator Towe stated the district courts are state courts but most expenses are now paid by the county. He said costs vary widely throughout the state and one case can be devastating to a smaller county. Twenty two other states already fund the district courts based on a 1979 survey. North Dakota went to this system in 1981. Senator Towe also submitted two proposed amendments to Senate Bill 25. The proposed amendments are attached as Exhibit A to these minutes.

CONSIDERATION OF SENATE BILL 142: Senator Mike Halligan, District #29, is the sponsor of this bill. The bill was introduced to increase the fee in lieu of tax on light vehicles; providing that the increased revenue be used, contingent on passage and approval of Senate Bill No. 25.

PROPONENTS

Gordon Morris, representing the Montana Association of Counties, spoke in favor of Senate Bills 25 and 142. He stated that counties live in fear of the one major court case that would break their budget. The Montana Association of Counties would like to see the State take full assumption of district court funding, but consider this is at least a start. Mr. Morris submitted a funding summary regarding Senate Bill 142. That summary is attached as Exhibit B to these minutes.

LOCAL GOVERNMENT COMMITTEE
FEBRUARY 5, 1985
EXHIBIT A

Sponsor amendment to LC 32: [SB 25]

1. Title, line 9.
Following: "7-6-2426,"
Insert: "7-6-2427"

2. Page 10.
Following: line 2
Insert: "Section 8. Section 7-6-2427, MCA, is amended to read:

"7-6-2427. Special provisions for certain charges related to criminal prosecutions. ~~(1)~~ Notwithstanding 7-6-2426, all costs of a criminal prosecution, including attorneys' fees, of an offense committed in the state prison are not charged against the county in which the state prison is located. Such costs shall be paid by the department of institutions.

~~(2) When a criminal action is removed before trial, the costs accruing upon such removal and trial must be a charge against the county in which the indictment was found or information filed.~~"

Renumber: subsequent sections

Amendments to Senate Bill 25, Introduced Copy

Title of Bill is amended as follows:

Page 1, Line 10, following 46-14-202, insert: "46-14-221,"

Body of the bill is amended as follows:

Page 13, after line 5, add a new section as follows: "Section 13. Section 46-14-221, MCA, is amended to read:

"**46-14-221. Determination of fitness to proceed — effect of finding of unfitness — expenses.** (1) The issue of the defendant's fitness to proceed may be raised by the defendant or his counsel or by the county attorney. When the issue is raised, it shall be determined by the court. If neither the county attorney nor counsel for the defendant contests the finding of the report filed under 46-14-203, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to summon and cross-examine the psychiatrists who joined in the report and to offer evidence upon the issue.

(2) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsection (4) of this section, and the court shall commit him to the custody of the director of the department of institutions to be placed in an appropriate institution of the department of institutions for so long as the unfitness endures. The committing court shall, within 90 days of commitment, review the defendant's fitness to proceed. If the court finds that he is still unfit to proceed and that it does not appear that he will become fit to proceed within the reasonably foreseeable future, the proceeding against him shall be dismissed, except as provided in subsection (4) of this section, and the county attorney shall petition the court in the manner provided in chapter 20 or 21 of Title 53, whichever is appropriate, to determine the disposition of the defendant pursuant to those provisions.

(3) If the court determines that the defendant lacks fitness to proceed because he is developmentally disabled as provided in 53-20-102(4), the proceeding against him shall be dismissed and the county attorney shall petition the court in the manner provided in chapter 20 of Title 53.

(4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the prosecution which is susceptible to fair determination prior to trial and without the personal participation of the defendant.

(5) The expenses of sending the defendant to the custody of the director of the department of institutions to be placed in an appropriate institution of the state department of institutions, of keeping him there, and of bringing him back are chargeable to the state ~~but the state may recover them from the estate of the defendant~~. AND PAYABLE ACCORDING TO PROCEDURES ESTABLISHED UNDER [SECTION 2(1)]."

Page 13, Line 6, renumber Sections 13, 15 and 16 accordingly.

DATE 2-5-85

COMMITTEE ON ~~[illegible]~~ LOCAL GOV'T

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
M.F. "Mickey" Nelson	MT Coroner's Assoc.	SB 177	X	
Greg Jackson	Urban Coalition	SB 142 SB 25	X	
Clara Gilreath	Mt. Assoc. Clerk of Court	SB 25	X	
Leanne Schraudner	Mt Assn Clerks of Courts	SB 25	X	
Bob Burt	Mt. Ass'n of Counties	SB 177		
J. L. BOUSLIMAN	ST BAR OF MT	SB 25	X	
Pat Melby	State Bar	SB 25	✓	
Lisa McAllister	Mt. Coroners' Assoc.	SB 177	✓	
J. MORRIS	MACo	SB 25	✓	
"	"	SB 142	✓	

(Please leave prepared statement with Secretary)

The hearing was closed on SB 266.

FURTHER CONSIDERATION OF SENATE BILL 241: Karen Renne prepared a memo regarding SB 241. The memo is attached as Exhibit E to these minutes.

Further action was deferred on SB 241 until the proposed amendments can be researched by Karen. The proposed amendments are attached as Exhibit F to these minutes.

FURTHER CONSIDERATION OF SENATE BILLS 25 AND 142: Karen Renne explained the proposed amendments to Senate Bills 25 and 142. They are attached as Exhibit G to these minutes.

Senator Mohar moved the Committee adopt the amendments to SB 25. The motion passed unanimously.

Senator Mohar moved the Committee adopt the amendments to SB 142.

Senator McCallum made a substitute motion that SB 142 DO NOT PASS. The substitute motion failed with Senators McCallum, Hirsch, and Story voting yes and Senators Fuller, Harding, Eck, Regan, Pinsoneault, and Mohar voting no.

Senator Mohar's original motion passed with Senator McCallum voting no.

Senator Eck moved that SB 142 be amended to have an effective date of July 1, 1985, which is the same effective date as SB 25 has. The motion passed unanimously.

Senator Mohar moved the Committee recommend a DO PASS on SB 142, as amended. The motion passed with Senators Hirsch, McCallum, Story, and Regan voting no and Senators Fuller, Harding, Eck, Pinsoneault, and Mohar voting yes.

There was a great deal of discussion as to whether an appropriations bill was necessary for SB 25. Senator Mohar suggested the Committee hold the Standing Committee Report on SB 142 until this matter could be clarified.

ACTION TAKEN ON SENATE BILL 244: Senator McCallum moved the Committee recommend a DO PASS on SB 244. The motion passed unanimously.

Gordon Morris, representing the Montana Association of Counties, and Dave Cole, representing the Department of Commerce, requested the Committee sponsor proposed legislation authorizing counties to furnish assistance in the rehabilitation of private dwellings. Karen Renne will prepare a Committee bill for the Committee to consider.

LOCAL GOVERNMENT COMMITTEE
FEBRUARY 14, 1985
EXHIBIT G

PROPOSED AMENDMENTS TO SB 25

1. Title, line 9.
Following: "7-6-2426,"
Insert: "7-6-2427,"

2. Title, line 10.
Following: "46-14-202,"
Insert: "46-14-221,"

3. Page 6, lines 9 through 19.
Following: "counties."
Strike: remainder of line 9 through "session." in line 19

4. Page 10, line 3.
Following: line 2
Insert: "Section 8. Section 7-6-2427, MCA, is amended to read:

"**7-6-2427. Special provisions for certain charges related to criminal prosecutions.** (1) Notwithstanding 7-6-2426, all costs of a criminal prosecution, including attorneys' fees, of an offense committed in the state prison are not charges against the county in which the state prison is located. Such costs shall be paid by the department of institutions.
~~(2) When a criminal action is removed before trial, the costs accruing upon such removal and trial must be a charge against the county in which the indictment was found or information filed.~~" "

Renumber: subsequent sections

5. Page 13, line 6.
Following: line 5.
Insert: "Section 14. Section 46-14-221, MCA, is amended to read:

"**46-14-221. Determination of fitness to proceed — effect of finding of unfitness — expenses.** (1) The issue of the defendant's fitness to proceed may be raised by the defendant or his counsel or by the county attorney. When the issue is raised, it shall be determined by the court. If neither the county attorney nor counsel for the defendant contests the finding of the report filed under 46-14-203, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to summon and cross-examine the psychiatrists who joined in the report and to offer evidence upon the issue.

(2) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsection (4) of this section, and the court shall commit him to the custody of the director of the department of institutions to be placed in an appropriate institution of the department of institutions for so long as the unfitness endures. The committing court shall, within 90 days of commitment, review the defendant's fitness to proceed. If the court finds that he is still unfit to proceed and that it does not appear that he will become fit to proceed within the reasonably foreseeable future, the proceeding against him shall be dismissed, except as provided in subsection (4) of this section, and the county attorney shall petition the court in the manner provided in chapter 20 or 21 of Title 53, whichever is appropriate, to determine the disposition of the defendant pursuant to those provisions.

(3) If the court determines that the defendant lacks fitness to proceed because he is developmentally disabled as provided in 53-20-102(4), the proceeding against him shall be dismissed and the county attorney shall petition the court in the manner provided in chapter 20 of Title 53.

(4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the prosecution which is susceptible to fair determination prior to trial and without the personal participation of the defendant.

(5) The expenses of sending the defendant to the custody of the director of the department of institutions to be placed in an appropriate institution of the state department of institutions, of keeping him there, and of bringing him back are chargeable to the state ~~but the state may recover them from the estate of the defendant~~ and payable as provided in section 2] " "

Renumber: subsequent sections

ment Board, and it deals with pensions and the consolidation of law enforcement officers. There is a provision that deals with consolidation. In this bill, if a police officer has a retirement plan and consolidates, how is his pension handled? Unfortunately a police officer went into a consolidation plan and an issue arose from his pension benefits. The Retirement Board said the statutes are clear that he should not receive the pension. It was taken to court, and the decision was in favor of the retiree. Because of that case, they are afraid it will happen again. The law will either have to be changed or more money will have to be put into the fund. Senate Bill 188 and Senate Bill 187 arose from that particular case. Therefore, they are plugging the loopholes and making it clear what they are talking about. There was no definition of death benefits prior to this bill. Page 6 makes it substantially clear that the surviving spouse receives a sum equal to one-half of the officer's final average salary. They are creating for the most part the benefits that the courts said should be provided and there is a clarification in limiting some of the benefits. This is a clarifying bill which does nothing but clarify.

PROPONENTS: Larry Nachtsheim, Administrator of the Public Employees' Retirement Division, said this bill is very technically correct. They had a gentleman who served as a sheriff for many years. When they had the consolidation of law enforcement systems in Butte-Silver Bow and Deer Lodge Counties, they had many law enforcement officers who had many years of service but they did not pay into the retirement system. In this particular case, a gentleman retired from the police system and asked for the benefits of the police system. They lost the court case, and since there was no funding to provide this type of benefits, they came up with this bill. The new language on page 6 is simply the language that was on page 7, which describes the death benefits.

OPPONENTS: There were no opponents present to testify.

There were no questions and no discussion from the committee.

In closing, Sen. Towe told the committee that when SB 187 is heard, he will be referring to the case mentioned in SB 188.

Chairman Darko told him the committee may act on this bill but she will hold the committee report until the other bill comes up. Rep. Fritz is to carry the bill on the floor.

CONSIDERATION OF SENATE BILL NO. 25: Sen. Towe of District #46, also appeared as sponsor of SB 25. The bill requires the state to assume funding for certain district court expenses and requires the Legislature to provide full funding for the district court grant fund. Sen. Towe said this bill is not terribly complex or complicated, but it is an important piece of legislation. He has been asked by two people

to make amendments. The first set of amendments came from John W. Northey, Staff Legal Counsel of the Office of the Legislative Auditor. These are attached as Exhibit 1, and deal with the legislative auditor. Sen. Towe said he accepts these amendments and has no problems with them, and asked for the committee's support. The second set of amendments, (Exhibit 2), was prepared by Lois Menzies of the Legislative Council. In some counties, instead of putting the money in the general fund, it is deposited in the district court fund, if the county has a district court fund. Sen. Towe felt it is a good idea to adopt those amendments as well. This bill deals with a very serious problem. It is a product of the Joint Interim Subcommittee No. 3 which was assigned to look at the court system in Montana to see if it could be made to work more effectively. There is a very serious funding problem in the court system. The district court is on the criminal side of Montana. It is a state court and is operated for the benefit of the state, not the counties. The counties have no control over it. When a criminal case is heard, it is the State of Montana vs the defendant, yet the county pays all but the judge's salary. The only thing that the state does pay is the judge's salary. The state puts into a fund a sum of money which would help the courts if the counties in that district levy 6 mills. The system was first created in 1981, but they put no money in it. The second time, in 1983, they funded it only half way, and it does not even come close to covering the cost over and above the 6 mills. In a county where the general mill levy is up to the maximum and the county mill is fully utilized and along comes a notorious criminal case which costs a lot of money, what does the county do? It is different in every county. Two counties exceed their mill levy, Broadwater and Butte-Silver Bow, but it also happened in Cascade county. Commissioner Pat Ryan raised a question. They can't levy more than is permitted or they will be violating the law. And if they don't provide money for the court system like the judges say, then they will get thrown in jail for contempt of court. Mr. Ryan came to the committee at that point, as they can go to jail either way. Those counties are today violating the law as they are levying more mills, and this bill addresses that question. Sen. Towe then listed the court expenses in criminal cases which is funded from the supreme court administrator, under the direction of the supreme court. There is a special provision for reimbursement of witnesses, which they want to be continued. Section 4 of the balance of the bill simply outlines in other sections those things that need to be changed. There is one question that he hasn't raised -- where does the money come from? Page 17, section 18, which was added by the Senate Committee, states that SB 142 is the Senate bill that does provide the money for this. In fact, it provides twice as much money than is necessary. $1.6 million is needed in each year of the biennium, $3.1 million takes care of the situation. Sen. Towe suggested striking section 18, since SB 142 was passed through the Senate, but Chairman Darko said that section is needed. Sen. Towe said

if SB 142 is not favorably acted upon he would ask the committee to look at this carefully. The bill is critical and is the single most important problem of local governments of funding district courts whether through SB 142 or some other bill.

PROPONENTS: Gordon Morris, representing the Montana Association of Counties, said that in reference to Sen. Towe's excellent presentation, House Taxation heard SB 142 and it will go out on a 10 - 10 recommendation. For the record, MACo has identified this particular issue as a high priority item of the county commissioners throughout the state. It is not a new study. The bill is a direct product of the report of the Judicial Committee. Those areas that would be administered under this bill, on page 1, line 18, items a, b, c, and d, are items which are currently funded out of the District Court Grant Program. Items e and f would be new requests within the context of this bill. It is not fair to assume that SB 25 and SB 142 would generate twice as much money as needed. Putting these two bills together was an attempt to generate $3.4 million which is being budgeted out of the grant-in-aid money. There is no additional money. He requested the committee's favorable action on SB 25.

Clara Gilreath, representing the Montana Association of Clerks of District Courts, stated they would like to go on record in support of SB 25. This bill is a product of a lot of hours the committee put in.

Greg Jackson, Urban Coalition, stated they are made up of the six largest counties of Montana. The Urban Coalition, along with MACo, has marked this as a high priority bill. Five counties in their membership have a $65,000 deficit. Cascade county has a deficit of $379,000. Of the 22 counties, 10 are rural counties so the problem is evident throughout the state as to the deficit problem. Revenue sharing can't be relied on. The Urban Coalition would like to go on record in high support of SB 25.

Lorraine Van Ausdol, Clerk of District Court, and president of the Clerk's Association, stated their association would like to go on record as asking for the committee's support for this bill. Funding the courts has been a problem for Gallatin County. She presented a letter from the Gallatin County Commission, which she read. This is attached as Exhibit 3. She stated they have no idea what is going to come up so it is hard to set up a budget and stick with it.

Toni Hagener, representing Hill county, stated the bill is deserving of the committee's favorable consideration. It defines what will be paid and makes a fairer statement of what will be paid than in the past. It is a concern of the counties that it is mandated. The counties have no opportunity to refuse, they have no control over the operation. She said in

their county, a murder was committed. They are over their 6 mill levy, and they are looking at a long term assumption of debt for which they have no source for getting the money. It is not all large counties that have these problems. The situation is urgent. She urged the committee's favorable action.

OPPONENTS: There were no opponents present.

DISCUSSION OF SENATE BILL NO. 25: Rep. Pistoria said Sen. Towe described very accurately what happened in Cascade county, and he wondered if this bill requires a 6 mill levy. Gordon Morris said that is not the fact. Taking a look at the fiscal note, the local impact is $3.2 million in fiscal year 1986 and 1987, and that represents real property tax relief. It is a realistic property tax relief effort that every county will benefit from.

Rep. Sands said Yellowstone county is one of the counties not over the six mills. He asked Gordon Morris if he has run the numbers for 1986 of what Yellowstone county will receive from this. Mr. Morris replied he has not run that number. One fifth of that would be allocated to those expenses. Under this bill they would be getting reimbursed and would not have to levy for that amount. Rep. Sands then asked if Yellowstone county would get one fifth of its court costs paid under this bill. Gordon Morris said this bill calls for 100% grant in aid program. In Cascade county and the other 22 counties that amount of money would be picked up 100%. In the case of Cascade county, he estimated it would be one fifth of the total budget. The dollar amount in Cascade county would be $300,000.

Rep. Gilbert asked Gordon Morris what affect this bill will have on counties that have no mills. Mr. Morris said that is not the situation at all. It is funding the district court operation out of a levy. There are nine counties that are in that unique situation. They do use the specific authority for district courts.

Rep. Wallin wanted to know how much SB 142 raises, and Mr. Morris told him it is a $5 motor vehicle flat fee increase on motor vehicles, which is anticipated to raise $6.6 million.

Rep. Wallin then asked why we look to automobiles for this, and he wondered if he was right in assuming that farmers and ranchers would be paying very high on this because they have many vehicles. Mr. Morris told him that in Montana, automobile owners and operators are enjoying the benefits of the flat fee. By looking at the fee schedule, that is currently fixed by law. The license fee on a new Lincoln would be $102. Rep. Wallin told Mr. Morris that when he is talking about a Lincoln, what would that 1 1/2% sales tax be on it if he had to pay that license. Mr. Morris answered that it is cheaper to own or license a vehicle in Montana than Washington, North

Dakota, or other states. At that point, Chairman Darko told them to please keep their comments to SB 25.

Rep. Kitselman stated they are trying to ask what percentage and benefits are derived from Yellowstone county and how much money would remain in Yellowstone county if this bill passes. Mr. Morris said there are 101,788 vehicles certified in Yellowstone county, with $505,000 being raised to support state assumption of the district court. Rep. Kitselman asked how much of that $505,000 would come back to benefit Yellowstone county. Mr. Morris told him he would have to realize that they are funding $350,000. Rep. Kitselman then asked if they went with a local option type of taxation would it be possible for Yellowstone county to fund with this option without going into this grant in aid? Mr. Morris replied he did not know what local option they were talking about.

Rep. Sales then asked Mr. Morris if he could give an idea of how many grant in aid counties there are now and how many there will be if this bill passes. Mr. Morris said there are 22 grant in aid counties in the year 1984. They were appointed $1.375 million. Under this bill, there would be no grant in aid program. Those same 22 counties would be the primary recipients.

Rep. Kadas asked if this was going to lower the required mill levy for every county, and Mr. Morris replied that is an unequivocal yes. Rep. Kadas said it will be lowered by the percentage of criminal cases for every county. If a county is levying 6 mills plus expenses and it does not bring them below 6 mills, what does this do? Mr. Morris replied this bill is built on the concept that there would be 100% refunding of the grant in aid program. Rep. Kadas said that district court expenses will be paid by the state across the county, and he wondered if that is the only place the money is going, in indigent legal costs. They don't guarantee that a county is going to be levying 6 mills. Mr. Morris said that the way grant in aid programs work now to levy up to the maximum, this bill would assure $1.701 million plus other expenses.

Rep. Switzer asked Mr. Morris if it picks up no costs that are not criminal, and Mr. Morris replied that the criminal part is that part picked up by the state of Montana.

Rep. Gilbert asked Mr. Morris if in his county under this program, would the state still come and fund 100% and not require them to raise their levy, and Mr. Morris replied that is correct. They would get $45,000 to $50,000 back.

Rep. Brandewie asked Mr. Morris out of the 28 counties that aren't required to raise the 6 mills, if they were to raise the 6 mills permissive, how much would they have raised? This is supposed to be equilizing, so how much would you raise in excess in the county that at this point isn't neces-

sary to raise the maximum? Are all counties required to levy the maximum mills for the purpose of courts, regardless of whether they need them or not? Mr. Morris said you have the authority for district court levies in every county, based on classification. It wouldn't be a case of equilizing of the 6 mills in every county. He guessed that the total amount raised would be $13 1/2 million.

Greg Jackson of the Urban Coalition told Rep. Brandewie there are 22 counties not levying their maximum and it would be $13 to $14 million.

Rep. Brandewie asked what was the total cost of operating the courts across the state, and Mr. Jackson replied the total cost is around #13 million.

In closing, Sen. Towe said this bill mandates that the state pay the entire 6-mill levy. There is considerable concern of where the money is coming from. This bill deals with the allocation of money. He would rather have the bill on the books unfunded than have nothing.

Rep. Pistoria stated there are a lot of counties that are not levying the 6 mills and he wondered if this bill forces them to come up with the 6 mills or leave it as it is. Also, if they don't have any costs below the 6 mills, do they take advantage of it? Sen. Towe told him that many of them levy 6 mills, some 4 or 5 mills. All the big ones are at the top. Silver Bow county is levying 10.2 mills. The bill only addresses criminal court cases and only those items listed on page 1. There are still costs for clerk of courts, filing costs, bailiff costs, etc., which are still paid by the local counties. In the 1982-83 fiscal year, the total costs in Montana was $11.9 million.

Rep. Gilbert asked Sen. Towe what percentage of the total court costs is criminal, and Sen. Towe told him $1.6 million, and that the only thing to keep in mind is that this bill works with the 6 mills, and the state contributes for anything over the 6 mills.

Rep. Darko suggested that Rep. Brown carry the bill, and that action on SB 25 be postponed until the next meeting. She advised the committee members to be prepared.

Rep. Brandewie said he would like someone to supply him with how many cars are in each county.

The committee then went into executive session for action on SB 188.

DISPOSITION OF SENATE BILL NO. 188: Rep. Hansen moved that SB 188 BE CONCURRED IN, seconded by Rep. Sales. Motion PASSED UNANIMOUSLY.

Exhibit 1
SB 25
3-19-85
Senator Towe

STATE OF MONTANA

Office of the Legislative Auditor

STATE CAPITOL
HELENA, MONTANA 59620
406/444-3122

ROBERT R. RINGWOOD
LEGISLATIVE AUDITOR

DEPUTY LEGISLATIVE AUDITORS:
JAMES H. GILLETT
FINANCIAL/COMPLIANCE AUDITS
SCOTT A. SEACAT
PERFORMANCE AUDITS
STAFF LEGAL COUNSEL
JOHN W. NORTHEY

March 15, 1985

Senator Tom Towe
Senate Chambers
State Capitol
Helena, MT 59620

RE: S.B. 25

Dear Senator Towe:

Please find enclosed a copy of proposed amendments to S.B. 25, a bill requiring the state to assume certain district court costs. These are the amendments I spoke with you about relating to the auditing of district court expenditures. The purpose of the amendments is to clarify who is responsible for which audit areas. I have discussed these proposals with Mike Abley, Supreme Court Administrator, and Don Dooley, Assistant Administrator of the Local Government Services Division of the Department of Commerce, and they both support the amendments.

I will be at the hearing in House Local Government on March 19 to be available to answer any questions. Thanks for your assistance, and if I may provide further information, please advise.

Sincerely,

John W. Northey
Staff Legal Counsel

JWN/jw332e

Enclosure

cc: Mike Abley, Supreme Court Administrator

Don Dooley, Local Government Services
Department of Commerce

sv7d

AMENDMENTS TO SENATE BILL #25
Third Reading Copy

BE AMENDED AS FOLLOWS:

1. Title line 8.
   Following: " PROGRAM;"
   Insert: "PROVIDING FOR AUDITS OF DISTRICT COURT EXPENSES;"

2. Page 2, line 9.
   Following: "expenses."
   Insert: "(1)"

3. Page 2, line 11.
   Strike: "(1)"
   Insert: "(a)"

4. Page 2, line 13.
   Strike: "(2)"
   Inset: "(b)"

5. Page 2, line 17.
   Strike: "(3) provide for annual auditing of"
   Insert: "(2) The department of Commerce shall audit"

6. Page 2,.line 19.
   Following: "expenditures."
   Insert: "The legislative auditor shall audit the disbursement of funds by the supreme court for payment of district count expenses listed in [section 1]."

2nd

Exhibit 2
SB 25
3-19-85
Senator Towe

Proposed Amendments to SB 25 (blue copy):

1. Page 3, line 3.
Strike: "general" through "the"

2. Page 3, line 4.
Following: "."
Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

3. Page 11, line 1.
Following: "~~(1)~~"
Insert: "(1)"

4. Page 12, line 15.
Strike: "general fund"

5. Page 12, line 17.
Following: "."
Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

6. Page 15, line 15.
Strike: "as provided in"
Insert: "according to procedures established under"
Following: "2"
Insert: "(1)"

7. Page 16, line 7.
Strike: "the" through "of"
Following: "."
Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

T SB 25
3-19-85
Sen. To

State of Montana

County of Gallatin

Bozeman

March 18, 1985

Representative Paula Darko
State Capitol
Helena, MT 59601

Dear Representative Darko:

We would like to express our support for SB 25. Counties are experiencing great difficulty in planning for district court expenses which we can neither control nor predict. State assistance is essential to assure for an adequate judicial system.

Please vote for SB 25.

Sincerely,

GALLATIN COUNTY COMMISSION

Wilbur Visser, Chairman

Jane Jelinski, Member

Ramon S. White, Member

JJ:vj

VISITORS' REGISTER

LOCAL GOVERNMENT COMMITTEE

BILL NO. SB 25 DATE March 19, 1985

SPONSOR SENATOR Towe

NAME (please print)	[redacted] REPRESENTING	SUPPORT	OPPOSE
Lorraine VanAusdol	~~President of State Bar~~ Clerk of District Court	X	
Michael Abley	Supreme Court	X	
Greg Jackson	Urban Coalition	X	
D. Morris	MACo	X	
A.R. (Toni) Hagen	Hill County	✓	
Pat Melby	State Bar of Mont	✓	
Clara DeCrinis	Clerk Dist Court	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

voting no.

Rep. Wallin then made a substitute motion of DO NOT PASS AS AMENDED, seconded by Rep. Pistoria. Motion FAILED on a Roll Call Vote of 11 to 3. Rep. Wallin said this is not only his problem, but it is an unfair bill.

Rep. Fritz stated this is one of the more important measures that might come out of the Legislature, about the financial difficulties of local governments and puts the solution in their hands where it belongs. Rep. Hansen told Rep. Wallin he will have to take his battle to the county.

Chairman Darko said these questions are local issues. If the people think it fair, they will vote for it; if not, they will not vote for it.

Rep. Brandewie said this sales tax should be to a broad base and not on equipment.

DISPOSITION OF HOUSE BILL NO. 393: Rep. Sales moved that HB 393 DO NOT PASS, seconded by Rep. Switzer.

Rep. Fritz made a substitute motion of DO PASS, seconded by Rep. Kadas.

Rep. Brandewie then made a substitute motion TO TABLE HB 393, seconded by Rep. Kitselman. The non-debatable motion PASSED on a Roll Call Vote of 9 to 5.

DISPOSITION OF SENATE BILL NO. 25: Rep. Switzer moved that SB 25 BE CONCURRED IN, seconded by Rep. Sales. Rep. Kadas felt this is an important bill as it deals with a problem that keeps coming back.

Chairman Darko stated this was the first bill that the clerk of court has not come in and opposed. This must be a better bill than the one previously discussed.

Rep. Pistoria asked if this was just $5, and Chairman Darko said there is no money attached to this one. If SB 140 does not pass, this is invalid.

Lee Heiman explained there are technical amendments that need to be added before it goes on the floor.

Rep. Sands moved the technical amendments, seconded by Rep. Kitselman. Motion PASSED.

Rep. Switzer then made the motion of DO NOT PASS AS AMENDED, seconded by Rep. Wallin. Question being called for, motion FAILED on a Roll Call Vote of 9 to 5.

STANDING COMMITTEE REPORT

March 21, 19 85

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 25

THIRD reading copy (BLUE color)

STATE FUNDING FOR CERTAIN DISTRICT COURT EXPENSES.

Respectfully report as follows: That SENATE Bill No. 25

BE AMENDED AS FOLLOWS:

1. Page 3, line 3.
Strike: "general" through "the"

2. Page 3, line 4.
Following: "."
Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

3. Page 11, line 1.
Following: "~~(i)~~"
Insert: "(1)"

4. Page 12, line 15.
Strike: "general fund"

~~XXXX~~
DO PASS

CONTINUED

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

March 21, 19 85

5. Page 12, line 17.
Following: "."
Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

6. Page 15, line 15.
Strike: "as provided in"
Insert: "according to procedures established under"
Following: "2"
Insert: "(1)"

7. Page 16, line 7.
Strike: "he" through "of"
8. Page 16, line 8.
Following: "."
Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

AND, AS SO AMENDED,
BE CONCURRED IN

PAULA DARKO, Chairman.

STATE PUB. CO.
Helena, Mont.

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE LOCAL GOVERNMENT

DATE Mar. 21, 1985 Senate Bill No. 25 Time _____

NAME	YES	NO
Darko, Paula - Chairman		✓
Wallin, Norm - Vice Chairman	✓	
Brandewie, Ray		✓
Brown, Dave		✓
Fritz, Harry		✓
Hansen, Stella Jean		✓
Gilbert, Bob		✓
Kadas, Mike		✓
Kitselman, Les	✓	
Pistoria, Paul		✓
Poff, Bing		✓
Sales, Walter	✓	
Sands, Jack	✓	
Switzer, Dean	✓	
	5	9

Marianne Bagley
Secretary

Paula Darko
Chairman

Motion: Do Not Pass As Amended

(Include enough information on motion -- put with yellow copy of committee report.)

CS-31

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE LOCAL GOVERNMENT

DATE Mar. 21 1985 Senate Bill No. 25 Time

NAME	YES	NO
Darko, Paula - Chairman	✓	
Wallin, Norm - Vice Chairman		✓
Brandewie, Ray	✓	
Brown, Dave	✓	
Fritz, Harry	✓	
Hansen, Stella Jean	✓	
Gilbert, Bob	✓	
Kadas, Mike	✓	
Kitselman, Les		✓
Pistoria, Paul	✓	
Poff, Ring	✓	
Sales, Walter		✓
Sands, Jack		✓
Switzer, Dean		✓
	9	5

Marianne Bagley
Secretary

Paula Darko
Chairman

Motion: Do Pass As Amended

(Include enough information on motion -- put with yellow copy of committee report.)

CS-31

GOVERNOR'S PROPOSED AMENDMENTS TO SENATE BILL NO. 25
REFERENCE COPY
April 19, 1985

1. Title, line 5.
   Following: "ACT"
   Strike: "REQUIRING
   Insert: "AUTHORIZING"

2. Title, Line 7.
   Following: line 6
   Strike: "REQUIRING"
   Insert: "AUTHORIZING"
   Following: "PROVIDE"
   Strike: "FULL"

3. Page 1, line 17.
   Following: "only"
   Insert: "and to the extent that funds are appropriated for that purpose"

4. Page 2, lines 5 through 7.
   Following: "(3)" on line 5
   Strike: remainder of line 5 through "(1)" on line 7
   Insert: "If monies appropriated for the expenses listed in subsection (1) are insufficient to fully fund those expenses, the county is responsible for payment of the balance. If no monies are appropriated, the county is responsible for payment of all expenses."

5. Page 2, line 12.
   Following: "[section 1]"
   Insert: ", including prorating of those funds should they not be sufficient to cover all expenses listed in [section 1]"

6. Page 3, line 4.
   Following: "fees"
   Insert: "on a full or prorated basis in accordance with [section 2]"

7. Page 3, line 25.
Following: "courts in the district"
Insert: "and the amount appropriated for that purpose"

8. Page 4, lines 1 through 3.
Following: "pay" on line 1
Strike: "its portion"
Insert: "the remainder"
Following: "salary" on line 1
Strike: remainder of line 1 through "courts in the district" on line 3

9. Page 5, line 12.
Following: " who "
Insert: ", in accordance with [section 2],"

10. Page 5, line 13.
Following: " of "
Insert: "all or a portion of"

11. Page 5, line 14.
Following: " reporter. "
Insert: "If the supreme court administrator, in accordance with [section 2], pays none or only a portion of the amount due, the county shall pay the balance upon receipt of a statement from the reporter."

12. Page 5, line 24.
Following: " (2) "
Insert: "to the extent funds are available"
Following: "."
Insert: "The county shall pay the remainder as required in [section 1]."

13. Page 6, line 2.
Following: "grants"
Insert: ", to the extent funds are appropriated for that purpose,"

14. Page 6, lines 4 through 13.
Following: "section." on line 4
Strike: remainder of line 4 through "counties." on line 13

15. Page 6, line 24.
Following: " ~~(2)~~ "
Strike: " (3) "
Insert: " (2) "

16. Page 7, line 12
Following: " (4) "
Strike: "The"
Insert: "To the extent funds are available, the"

17. Page 10, line 9.
Following: "~~(1)~~"
Insert: "(1)"

18. Page 10.
Following: line 18
Insert: "(2) When a criminal action is removed before trial, the costs accruing upon such removal and trial must be a charge against the county in which the indictment was found or information filed, subject to partial or total reimbursement as provided in [section 1]."

19. Page 11, line 1.
Following: " ~~county~~ "
Insert: "county,"
Following: " city "
Insert: ","
Strike: " or "

20. Page 11, line 15.
Following: " ~~arose~~ "
Insert: "county in which the proceeding arose, or the"

21. Page 11, line 16.
Following: "administrator,"
Insert: " or both as provided in [section 1],"

22. Page 12, line 9.
Following: " [section 2(1)] "
Insert: "and, to the extent those costs are not paid by by the state, at county expense in accordance with [section 1(3)] and [section 2(1)]"

23. Page 12, line 19.
Following: " (2)"
Strike: " The "
Insert: "Subject to the procedures established pursuant to [section 2(1)], the"

24. Page 13, line 24.
Following: " state "
Insert: ", or both,"

25. Page 16, line 17.
Following: " for "
Insert: "all or a portion of"

26. Page 17, line 8.
Following: " fund "
Insert: "to the extent the expenses were paid by the state"

27. Page 17, line 19.
Following: "APPROVED"
Insert: "OR IF SENATE BILL NO. 142, AS PASSED AND APPROVED, CONTAINS NO FUNDING OR APPROPRIATION FOR DISTRICT COURT EXPENSES AND GRANTS"

-END-

CONFERENCE COMMITTEE REPORT

Report No. 1

APR. 25, 1985

MR. PRESIDENT

We, your FREE Conference Committee on SENATE BILL NO. 25, reference bill, met and considered SENATE BILL NO. 25 in its entirety.

We recommend as follows:

1. Title, line 5.
Strike: "REQUIRING"
Insert: "AUTHORIZING"

2. Title, line 7.
Strike: "REQUIRING"
Insert: "AUTHORIZING"
Strike: "FULL"

3. Page 1, line 16.
Following: "shall"
Insert: ", to the extent that money is appropriated,"

(CONTINUED)

And that this Conference Committee report be adopted.

FOR THE SENATE

TOWE, CHM.

HALLIGAN

SMITH

ADOPT REJECT

FOR THE HOUSE

ADDY

BROWN

GILBERT

WALLIN

KB

APR. 25, 1985

4. Page 2, lines 5 through 7.
Following: "(3)" on line 5
Strike: remainder of line 5 through "(1)" on line 7
Insert: "If money appropriated for the expenses listed in subsection (1) is insufficient to fully fund those expenses, the county is responsible for payment of the balance. If no money is appropriated, the county is responsible for payment of all expenses."

5. Page 2, line 12.
Following: "[section 1]"
Insert: ", including prorating of those funds if they are insufficient to cover all expenses listed in [section 1]"

6. Page 3, line 4.
Following: "fees"
Insert: "on a full or prorated basis in accordance with [section 2]"

7. Page 3, line 25.
Following: "courts in the district"
Insert: "and the amount appropriated for that purpose"

8. Page 4, line 1.
Following: "portion"
Insert: "of the remainder"

9. Page 4, line 2.
Following: "~~criminal~~"
Insert: "and criminal"

10. Page 5, line 12.
Following: "who"
Insert: ", in accordance with [section 2],"

11. Page 5, line 13.
Following: "of"
Insert: "all or a portion of"

12. Page 5, line 14.
Following: "reporter."
Insert: "If the supreme court administrator, in accordance with [section 2], pays none or only a portion of the amount due, the county shall pay the balance upon receipt of a statement from the reporter."

13. Page 5, line 24.
Following: "(2)"
Insert: "to the extent funds are available"
Following: "."
Insert: "The county shall pay the remainder as required in [section 1]."

(CONTINUED) TEJ

APRIL 25, 19 85

14. Page 6, line 2.
Following: "grants"
Insert: ", to the extent funds are appropriated for that purpose,"

15. Page 6, lines 4 through 6.
Following: "section." on line 4
Strike: remainder of line 4 through "." on line 6

16. Page 6, line 10 through 13.
Strike: "(2)" on line 10 through "." on line 13
Renumber: subsequent subsections

17. Page 7, line 12.
Strike: "The"
Insert: "To the extent funds are available, the"

18. Page 10, line 9.
Following: "~~(1)~~"
Insert: "(1)"

19. Page 10.
Following: line 18
Insert: "(2) If a criminal action is removed before trial, the costs accruing upon such removal and trial must be a charge against the county in which the indictment was found or information filed, subject to partial or total reimbursement as provided in [section 1]."

20. Page 11, line 1.
Following: "~~county~~"
Insert: "county,"
Following: "city"
Insert: ","
Strike: "or"
Following: "town"
Insert: ","

21. Page 11, line 15.
Following: "chargeable"
Insert: "as provided in [section 1]"
Following: "~~arose~~"
Insert: "county in which the proceeding arose, the"

22. Page 11, line 16.
Following: "administrator,"
Insert: "or both,"

(CONTINUED) TET

APRIL 25, 19 85

23. Page 12, line 9.
Following: "[section 2(1)]"
Insert: "and, to the extent those costs are not paid by the state, at county expense in accordance with [section 1(3)] and [section 2(1)]"

24. Page 12, line 19.
Strike: "The"
Insert: "Subject to the procedures established under [section 2(1)], the"

25. Page 13, line 23.
Following: "by the"
Insert: "county or the"

26. Page 13, line 24.
Following: "state"
Insert: ", or both,"

27. Page 16, line 17.
Following: "for"
Insert: "all or a portion of"

28. Page 17, line 8.
Following: "fund"
Insert: "to the extent the expenses were paid by the state"

29. Page 17, line 19.
Following: "APPROVED"
Insert: "or if Senate Bill No. 142, as passed and approved, contains no funding or appropriation for district court expenses and grants"

FCCSB25

SENATE BILL NO. 25

INTRODUCED BY TOWE

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

A BILL FOR AN ACT ENTITLED: "AN ACT ~~REQUIRING~~ AUTHORIZING THE STATE TO ASSUME FUNDING FOR CERTAIN DISTRICT COURT EXPENSES AND ~~REQUIRING~~ AUTHORIZING THE LEGISLATURE TO PROVIDE ~~FULL~~ FUNDING FOR THE DISTRICT COURT GRANT PROGRAM; AMENDING SECTIONS 3-5-602, 3-5-604, 7-6-2352, 7-6-2426, 7-6-2427, 46-8-114, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-14-221, 46-15-104, AND 46-18-235, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. State assumption of certain district court expenses. (1) Effective July 1, 1985, the state shall, TO THE EXTENT THAT MONEY IS APPROPRIATED, fund the following district court expenses in criminal cases only:

(a) salaries of court reporters;

(b) transcripts of proceedings;

(c) witness fees and necessary expenses;

(d) juror fees;

(e) indigent defense; and

(f) psychiatric examinations.

(2) The supreme court administrator, under the direction of the supreme court and in consultation with the district judges for each judicial district, shall include within the supreme court's biennial budget request to the legislature a request for funding the expenses listed in subsection (1).

(3) ~~The legislature shall appropriate from the state general fund to the supreme court sufficient money to fund the expenses listed in subsection (1).~~ IF MONEY APPROPRIATED FOR THE EXPENSES LISTED IN SUBSECTION (1) IS INSUFFICIENT TO FULLY FUND THOSE EXPENSES, THE COUNTY IS RESPONSIBLE FOR PAYMENT OF THE BALANCE. IF NO MONEY IS APPROPRIATED, THE COUNTY IS RESPONSIBLE FOR PAYMENT OF ALL EXPENSES.

NEW SECTION. Section 2. Fiscal administration for payment of court expenses. The supreme court administrator shall:

(1) establish procedures for disbursement of funds for payment of district court expenses listed in [section 1], INCLUDING PRORATING OF THOSE FUNDS IF THEY ARE INSUFFICIENT TO COVER ALL EXPENSES LISTED IN [SECTION 1];

(2) in consultation with the department of commerce, develop a uniform accounting system for use by the counties in reporting court expenses at a detailed level for budgeting and auditing purposes; and

(3) provide for annual auditing of district court

SB 25
REFERENCE BILL: Includes Free Conference Committee Report
Dated 4-25-85

expenses to assure normal operations and consistency in reporting of expenditures.

NEW SECTION. Section 3. Reimbursement for juror and witness fees. According to procedures established by the supreme court administrator under [section 2(1)], each clerk of district court shall submit to the supreme court administrator a detailed statement containing a list of witnesses and jurors for criminal cases only and the amount of per diem and mileage paid to each by the county. Upon receipt and verification of the statement, the administrator shall promptly reimburse the ~~general fund of the~~ designated county for the cost of witness and juror fees ON A FULL OR PRORATED BASIS IN ACCORDANCE WITH [SECTION 2]. THE COUNTY SHALL DEPOSIT THE AMOUNT REIMBURSED IN ITS GENERAL FUND UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE COUNTY HAS A DISTRICT COURT FUND, THE AMOUNT REIMBURSED MUST BE DEPOSITED IN SUCH FUND.

Section 4. Section 3-5-602, MCA, is amended to read:

"3-5-602. Salary and expenses -- apportionment. (1) Each reporter is entitled to receive a base annual salary of not less than $16,000 or more than $23,000 and no other compensation except as provided in 3-5-604. The salary shall be set by the judge for whom the reporter works. The salary is payable in monthly installments out of the general funds of the counties comprising the district for which the

reporter is appointed and out of an appropriation made to the supreme court as provided in subsection (2).

(2) The supreme court administrator shall determine the total number of civil and criminal actions commenced in the preceding year in the district court or courts in the judicial district for which a reporter is appointed. The state shall pay its portion of the reporter's salary based on the proportion of the total number of criminal actions commenced in the district court or courts in the district AND THE AMOUNT APPROPRIATED FOR THAT PURPOSE. Each county shall pay its portion OF THE REMAINDER of the salary based on its proportion of the total number of civil ~~and criminal~~ AND CRIMINAL actions commenced in the district courts in the district ~~in the preceding year~~. The judge or judges of the district shall, on January 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in his or their district on the basis prescribed in this subsection. The portion of the salary payable by a county is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

~~(2)~~(3) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when he goes on official business

to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto. The expenses shall be apportioned and payable in the same way as the salary."

Section 5. Section 3-5-604, MCA, is amended to read:

"3-5-604. Transcript of proceedings. (1) Each reporter must furnish, upon request, with all reasonable diligence, to a party or his attorney in a case in which he has attended the trial or hearing a transcript from his stenographic notes of the testimony and proceedings of the trial or hearing or a part thereof, upon payment by the person requiring the same of $2 per page for the original transcript, 50 cents per page for the first copy, 25 cents per page for each additional copy.

(2) If the county attorney, attorney general, or judge requires a transcript in a criminal case, the reporter is entitled to his fees therefor, but he must furnish it. Upon furnishing it, he shall receive a certificate of for the sum to which he is ~~so entitled, which is a county charge and must be paid by the county treasurer upon the certificate like other county charges~~. The reporter shall submit the certificate to the supreme court administrator who, IN ACCORDANCE WITH [SECTION 2], is responsible for the prompt payment of ALL OR A PORTION OF the amount due the reporter. IF THE SUPREME COURT ADMINISTRATOR, IN ACCORDANCE WITH

[SECTION 2], PAYS NONE OR ONLY A PORTION OF THE AMOUNT DUE, THE COUNTY SHALL PAY THE BALANCE UPON RECEIPT OF A STATEMENT FROM THE REPORTER.

(3) If the judge requires a copy in a civil case to assist him in rendering a decision, the reporter must furnish the same without charge therefor. In civil cases, all transcripts required by the county shall be furnished, and only the reporter's actual costs of preparation may be paid by the county.

(4) If it appears to the judge that a defendant in a criminal case is unable to pay for a transcript, it shall be furnished to him and paid for by the county state in the manner provided in subsection (2) TO THE EXTENT FUNDS ARE AVAILABLE. THE COUNTY SHALL PAY THE REMAINDER AS REQUIRED IN [SECTION 1]."

Section 6. Section 7-6-2352, MCA, is amended to read:

"7-6-2352. State grants to district courts -- rules. (1) The department of commerce shall make grants, TO THE EXTENT FUNDS ARE APPROPRIATED FOR THAT PURPOSE, to the governing body of a county for the district courts for assistance, as provided in this section. ~~The grants are to be made from funds appropriated to the department for that purpose as provided in subsection (2). If the department approves grants in excess of the amount appropriated, each grant shall be reduced an equal percentage so the~~

~~appropriation will not be exceeded.~~

~~(2) The legislature shall appropriate from the state general fund to the department of commerce sufficient money to fully fund eligible grant requests submitted by the governing bodies of the counties. If in the first fiscal year of the biennium for which an appropriation is made eligible grant requests exceed the first fiscal year appropriation, the department shall make expenditures from the second fiscal year appropriation to fund the grant requests. If in the second fiscal year of the biennium for which an appropriation is made, eligible grant requests exceed the second fiscal year appropriation, as it may be reduced by expenditures for eligible first fiscal year grant requests, the department shall request a supplemental appropriation at the next legislative session.~~

~~(3)~~ (2) The governing body of a county may apply to the department of commerce for a grant by filing a written request on forms provided by the department by July 20 for the previous fiscal year unless the department grants a time extension upon request of the county. In its request for a grant, a county must certify that:

(a) all expenditures from the district court fund have been lawfully made;

(b) no transfers from the district court fund have been or will be made to any other fund; and

(c) no expenditures have been made from the district court fund that are not specifically authorized by 7-6-2511 and 7-6-2351.

~~(4)~~ (3) The TO THE EXTENT FUNDS ARE AVAILABLE, THE department of commerce shall award a grant if the county's district court expenditures for the previous fiscal year exceeded the sum of:

(a) the product of the maximum mill levy authorized by law for district court purposes, whether or not assessed, multiplied by the previous year's taxable valuation of the county; and

(b) all revenues, except district court grants, required by law to be deposited in the district court fund for the previous fiscal year.

~~(5)~~ (4) Eligible court expenditures for grant purposes include all costs of the county associated with the operation and maintenance of the district court, from whatever fund paid, except costs for building and capital items and library maintenance, replacement, and acquisition.

~~(6)~~ (5) The department of commerce shall notify each eligible county as soon as possible of its intention to award a grant to that county and the amount of the award.

~~(7)~~ (6) The grant received by the county shall be placed in the district court fund.

~~(8)~~ (7) After all grants are awarded, the department

of commerce shall audit each approved grant request. The department shall charge each county receiving a grant an audit fee in the same amount as the costs incurred in conducting the audit.

~~(8)~~(9) If the audit of a grant recipient discloses that the recipient received a grant in excess of the amount for which it was eligible, the recipient shall repay the excess to the department of commerce. The department shall redistribute any repaid excess amounts to the other counties that received grants from the appropriation from which the overpayment was made, on the same basis as the original awards. No county is eligible for a district court grant if it owes the department a refund of a prior year's overpayment.

~~(9)~~(10) The department of commerce shall prescribe rules and forms necessary to effectively administer this section. The department may require a county to provide any information considered necessary for the administration of the program."

Section 7. Section 7-6-2426, MCA, is amended to read:

"7-6-2426. Enumeration of county charges. The following are county charges:

(1) charges incurred against the county by virtue of any provision of this title;

(2) one-half of the salary of the county attorney and

all expenses necessarily incurred by him in criminal cases arising within the county;

(3) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons charged with criminal offenses;

(4) the board of prisoners confined in jail;

~~(5) the sums required by law to be paid to grand and trial jurors and witnesses in criminal cases;~~

~~(6)~~(5) the accounts of the coroner of the county for such services as are provided by law;

~~(7)~~(6) all charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law;

~~(8)~~(7) the necessary expenses incurred in the support of county hospitals and poorfarms and in the support of the indigent sick and the otherwise dependent poor whose support is chargeable to the county;

~~(9)~~(8) the contingent expenses necessarily incurred for the use and benefit of the county;

~~(10)~~(9) every other sum directed by law to be raised for any county purpose under the direction of the board of county commissioners or declared to be a county charge."

SECTION 8. SECTION 7-6-2427, MCA, IS AMENDED TO READ:

"7-6-2427. Special provisions for certain charges related to criminal prosecutions. ~~(1)~~ (1) Notwithstanding 7-6-2426, all costs of a criminal prosecution, including attorneys' fees, of an offense committed in the state prison are not charges against the county in which the state prison is located. Such costs shall be paid by the department of institutions.

~~(2) When a criminal action is removed before trial, the costs accruing upon such removal and trial must be a charge against the county in which the indictment was found or information filed.~~

(2) IF A CRIMINAL ACTION IS REMOVED BEFORE TRIAL, THE COSTS ACCRUING UPON SUCH REMOVAL AND TRIAL MUST BE A CHARGE AGAINST THE COUNTY IN WHICH THE INDICTMENT WAS FOUND OR INFORMATION FILED, SUBJECT TO PARTIAL OR TOTAL REIMBURSEMENT AS PROVIDED IN [SECTION 1]."

Section 9. Section 46-8-114, MCA, is amended to read:

"46-8-114. Time and method of payment of costs. When a defendant is sentenced to pay the costs of court-appointed counsel, the court may order payment to be made within a specified period of time or in specified installments. Such payments shall be made to the clerk of the district court. The clerk of the district court shall disburse the payments to the ~~county~~ COUNTY, city, or town, or state agency responsible for the expenses of court-appointed counsel as

provided for in 46-8-201."

Section 10. Section 46-8-201, MCA, is amended to read:

"46-8-201. Remuneration of appointed counsel. ~~(1)~~ (1) Whenever in a criminal proceeding an attorney represents or defends any person by order of the court on the ground that the person is financially unable to employ counsel, the attorney shall be paid for his services such sum as a district court or justice of the state supreme court certifies to be a reasonable compensation therefor and shall be reimbursed for reasonable costs incurred in the criminal proceeding.

(2) The expense of implementing subsection (1) is chargeable AS PROVIDED IN [SECTION 1] to the ~~county in which the proceeding arose~~ COUNTY IN WHICH THE PROCEEDING AROSE, THE office of supreme court administrator, OR BOTH, except that:

(a) in proceedings solely involving the violation of a city ordinance or state statute prosecuted in a municipal or city court, the expense is chargeable to the city or town in which the proceeding arose; and

(b) when there has been an arrest by agents of the department of fish, wildlife, and parks or agents of the department of justice, the expense must be borne by the state agency causing the arrest."

Section 11. Section 46-8-202, MCA, is amended to read:

"46-8-202. Public defender's office. Any county through its board of county commissioners may provide for the creation of a public defender's office and the appointment of a salaried public defender and such assistant public defenders as may be necessary to satisfy the legal requirements in providing counsel for defendants unable to employ counsel. The costs of such office shall be at ~~county~~ state expense payable according to procedures established under [section 2(1)] AND, TO THE EXTENT THOSE COSTS ARE NOT PAID BY THE STATE, AT COUNTY EXPENSE IN ACCORDANCE WITH [SECTION 1(3)] AND [SECTION 2(1)]."

Section 12. Section 46-11-319, MCA, is amended to read:

"46-11-319. Expenses of grand jury. (1) All expenses of the grand jury, including special counsel and investigators, if any, shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor or the clerk of the district court upon the written order of the judge of the district court of the county.

(2) ~~The~~ SUBJECT TO THE PROCEDURES ESTABLISHED UNDER [SECTION 2(1)], THE state shall reimburse the county ~~general~~ fund for juror and witness fees as provided in [section 3] and for witness expenses as provided in 46-15-104. THE COUNTY SHALL DEPOSIT THE AMOUNT REIMBURSED IN ITS GENERAL

FUND UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE COUNTY HAS A DISTRICT COURT FUND, THE AMOUNT REIMBURSED MUST BE DEPOSITED IN SUCH FUND."

Section 13. Section 46-14-202, MCA, is amended to read:

"46-14-202. Psychiatric examination of defendant. (1) If the defendant or his counsel files a written notice of his intent to rely on a mental disease or defect under 46-14-201 or raises the issue of his fitness to proceed, the court shall appoint at least one qualified psychiatrist or shall request the superintendent of the Montana state hospital to designate at least one qualified psychiatrist, which designation may be or include himself, to examine and report upon the mental condition of the defendant.

(2) The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period of not exceeding 60 days or such longer period as the court determines to be necessary for the purpose and may direct that a qualified psychiatrist retained by the defendant be permitted to witness and participate in the examination.

(3) In the examination any method may be employed which is accepted by the medical profession for the examination of those alleged to be suffering from mental disease or defect.

(4) The cost of the examination must be paid by the COUNTY OR THE state, OR BOTH, according to procedures established under [section 2(1)]."

SECTION 14. SECTION 46-14-221, MCA, IS AMENDED TO READ:

"46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses. (1) The issue of the defendant's fitness to proceed may be raised by the defendant or his counsel or by the county attorney. When the issue is raised, it shall be determined by the court. If neither the county attorney nor counsel for the defendant contests the finding of the report filed under 46-14-203, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to summon and cross-examine the psychiatrists who joined in the report and to offer evidence upon the issue.

(2) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsection (4) of this section, and the court shall commit him to the custody of the director of the department of institutions to be placed in an appropriate institution of the department of institutions for so long as the unfitness endures. The

committing court shall, within 90 days of commitment, review the defendant's fitness to proceed. If the court finds that he is still unfit to proceed and that it does not appear that he will become fit to proceed within the reasonably foreseeable future, the proceeding against him shall be dismissed, except as provided in subsection (4) of this section, and the county attorney shall petition the court in the manner provided in chapter 20 or 21 of Title 53, whichever is appropriate, to determine the disposition of the defendant pursuant to those provisions.

(3) If the court determines that the defendant lacks fitness to proceed because he is developmentally disabled as provided in 53-20-102(4), the proceeding against him shall be dismissed and the county attorney shall petition the court in the manner provided in chapter 20 of Title 53.

(4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the prosecution which is susceptible to fair determination prior to trial and without the personal participation of the defendant.

(5) The expenses of sending the defendant to the custody of the director of the department of institutions to be placed in an appropriate institution of the state department of institutions, of keeping him there, and of bringing him back are chargeable to the state ~~but-the-state may-recover-them--from--the--estate--of--the--defendant~~ and

payable ~~as--provided-in~~ ACCORDING TO PROCEDURES ESTABLISHED UNDER [section 2(1)]."

Section 15. Section 46-15-104, MCA, is amended to read:

"46-15-104. Expenses of witness. (1) When a person attends before a magistrate, grand jury, or court as a witness in a criminal case upon a subpoena or in pursuance of an undertaking, the judge, at his discretion, by a written order may direct the clerk of the court to draw his warrant upon the county treasurer in favor of such witness for a reasonable sum, to be specified in the order, for the necessary expenses of the witness.

(2) According to procedures established by the supreme court administrator under [section 2(1)], the clerk of district court shall submit to the supreme court administrator a detailed statement containing a list of witnesses and the amount of expenses paid to each by the county. Upon receipt and verification of the statement, the administrator shall promptly reimburse ~~the-general-fund-of~~ the designated county for ALL OR A PORTION OF the cost of witness expenses. THE COUNTY SHALL DEPOSIT THE AMOUNT REIMBURSED IN ITS GENERAL FUND UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE COUNTY HAS A DISTRICT COURT FUND, THE AMOUNT REIMBURSED MUST BE DEPOSITED IN SUCH FUND."

Section 16. Section 46-18-235, MCA, is amended to

read:

"46-18-235. Disposition of money collected as fines and costs. The money collected by a court as a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and 46-18-232 shall be paid to the county general fund of the county in which the court is held, except that:

(1) if the costs assessed include any district court expense listed in [section 1], the money collected from assessment of these costs must be paid to the supreme court administrator for deposit into the state general fund TO THE EXTENT THE EXPENSES WERE PAID BY THE STATE; and

(2) if the fine was imposed for a violation of Title 45, chapter 9, the court may order the money paid into the drug forfeiture fund maintained under 44-12-206 for the law enforcement agency which made the arrest from which the conviction and fine arose."

NEW SECTION. Section 17. Codification instruction. Sections 1 through 3 are intended to be codified as an integral part of Title 3, chapter 5, and the provisions of Title 3, chapter 5, apply to sections 1 through 3.

NEW SECTION. SECTION 18. COORDINATION INSTRUCTION. IF SENATE BILL NO. 142 IS NOT PASSED AND APPROVED OR IF SENATE BILL NO. 142, AS PASSED AND APPROVED, CONTAINS NO FUNDING OR APPROPRIATION FOR DISTRICT COURT EXPENSES AND

GRANTS, THIS ACT IS VOID.

NEW SECTION. Section 19. Effective date. This act is effective July 1, 1985.

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